

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 02-0412P

**Adjusted Gross Income Tax
For Short Year 01/01/99 to 07/16/99**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration— Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the proposed penalty assessment for the late payment of its income tax. The due date of the return was November 16, 1999. Taxpayer had an extension to file until October 15, 2000 and submitted payment of approximately thirty percent (30%) of its tax liability. The Department issued its late payment assessment on June 25, 2002.

Taxpayer filed a penalty protest letter dated August 7, 2002.

Taxpayer states that it was formerly named Company A. The name change occurred on July 16, 1999 when Company A was sold. As a result of the sale, two short period returns were filed for tax year 1999. Immediately prior to its sale, Company A recognized unexpected and significant income as a result of a gain related to restructuring activity. Company A's estimated payments were not substantial enough to meet the Indiana income tax liability created by this additional income. During the period of the sale, the owner was in the process of restructuring its operations, which required extensive review of accounting systems, establishing procedures to close the financial reports of the sold corporations and transitioning personnel to new roles within the accounting and tax department. These factors contributed to reduced continuity within the accounting and tax departments as responsibilities were transferred among new and different people. As a result of the restructuring, Company A's tax personnel were not able to estimate the gain, and the resulting increased Indiana income tax liability, in time to pay additional estimated tax to cover the additional income.

These factors contributed to the underpayment of estimated tax for this period. These factors also resulted in the underpayment of estimated tax for the period from July 17, 1999 to December 31, 1999. Taxpayer states that it has an excellent history of filing all tax returns on a timely basis.

Taxpayer believes that its underpayment of tax was due to reasonable cause and not willful neglect and has paid the interest.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states.

The issue is not the underpayment of tax but the late payment thereof. Taxpayer did not make full payment by the original due date of the return. More than thirty percent of the tax due was paid after the due date of the return. An extension to file is not an extension for payment.

Taxpayer has not provided reasonable cause to allow the Department to waive the penalty.

FINDING

Taxpayer's protest is denied.